

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0382-01  
Bill No.: HB 512  
Subject: Drugs and Controlled Substances; Crimes and Punishment; Criminal Procedure;  
Courts  
Type: Original  
Date: May 16, 2013

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Bill Summary: This proposal revises penalty provisions for possession of less than 35 grams of marijuana and possession of marijuana drug paraphernalia.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of the State Public Defender (SPD)** state this pending legislation has the potential to have a minimal positive fiscal impact, since it makes certain misdemeanor possessions of marijuana and certain misdemeanor possessions of drug paraphernalia punishable by fine only, which defendants therefore would not be eligible for public defenders. However, there are so many exceptions, most would still be punishable by jail and therefore would continue to be eligible for a public defender.

In FY2012, SPD was assigned 218 misdemeanor possession of marijuana cases (195.203).

In FY2012, SPD was assigned 755 misdemeanor possession of drug paraphernalia cases (195.233). However, this charge code includes drug paraphernalia for any drug (other than for meth in which case the paraphernalia is a felony). Most of the paraphernalia were for some drug other than marijuana (probably mostly cocaine). It is logical to assume that approximately 218 of those were marijuana paraphernalia.

218 + 218 would be 436 misdemeanors that could potentially be taken off our plate.

However, the exceptions included in the bill (in other words when those offenses would continue to be punished by jail) are so expansive that most of our cases would still be punishable by jail. Even if we assume 25% would not be punishable by jail then that would be 109 misdemeanors (25% of 426) taken off our plate.

Under our protocol, 109 misdemeanors amount to 545 hours (5 x 109) or less than 1/3 of an attorney; therefore, no significant impact to SPD.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation revises penalty provisions for possession of less than 35 grams of marijuana and possession of marijuana drug paraphernalia.

During the previous five years there has been an average of 14,525 cases of possession of thirty-five grams of marijuana or any synthetic cannabinoid. This includes possession of marijuana drug paraphernalia. According to the proposal, if the person violates certain sections, there will be a fine that shall be an amount not to exceed two hundred fifty dollars. If we assumed these sections were violated there would be a total fine of approximately \$3,631,250 within any given year. However, it is possible that this will not occur, therefore, the total fine amount could be from \$0 up to \$3,631,250 within a given year.

RS:LR:OD

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state this proposal revises the penalty provisions for possession of less than 35 grams of marijuana and possession of marijuana drug paraphernalia.

Penalty provisions for violations, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Revenue, Office of Prosecution Services** and the **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

**Oversight** will assume the proposal would result in an increased amount of fine revenue collected. Oversight will assume this fine revenue will be paid primarily to local school districts. Oversight also assumes a portion of the fines levied will be uncollectible; therefore, Oversight will assume an unknown amount will be collected. Oversight also assumes the additional fine revenue may result in a reduction of state funding to certain school districts in the following year; however, Oversight assumes this savings would then be distributed to other school districts, resulting in no net fiscal impact to the state.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2014  
(10 Mo.)

FY 2015

FY 2016

**LOCAL POLITICAL SUBDIVISIONS**

Income - School Districts - fine revenue  
from \$250 fine for possession of less than  
35 grams of marijuana and possession of  
marijuana drug paraphernalia

Unknown

Unknown

Unknown

**ESTIMATED NET EFFECT TO  
LOCAL POLITICAL SUBDIVISIONS**

**UNKNOWN**

**UNKNOWN**

**UNKNOWN**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, any person who possesses or has under his or her control no more than 35 grams of marijuana or any synthetic cannabinoid is guilty of a class A misdemeanor. Additionally, any person who uses or possesses with the intent to use any drug paraphernalia is guilty of a class A misdemeanor.

This bill specifies that a person who possesses or has under his or her control no more than 35 grams of marijuana or any synthetic cannabinoid or any marijuana drug paraphernalia is guilty of a misdemeanor and subject to a fine of up to \$250 and will be issued a summons to appear in court but not arrested. If found guilty, the offender cannot be incarcerated or lose his or her driver's license and there will be a strong presumption that the proper disposition of the case would be to suspend the imposition of sentence and require community service, controlled substance counseling, or both.

FISCAL DESCRIPTION (continued)

However, any person who has been found guilty of any of the following is guilty of a class A misdemeanor:

- (1) A felony within the preceding 10 years;
- (2) A class A misdemeanor, other than the possession of 35 grams or less of marijuana or any synthetic cannabinoid or possession of marijuana drug paraphernalia within the preceding five years;
- (3) Possession of 35 grams or less of marijuana or any synthetic cannabinoid or possession of marijuana drug paraphernalia on two or more prior occasions within the preceding five years; or
- (4) Is arrested for any felony or misdemeanor, other than possession of 35 grams or less of marijuana or any synthetic cannabinoid or possession of marijuana drug paraphernalia, arising from the same set of facts and circumstances.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety  
Office of Prosecution Services  
Office of the State Public Defender  
Office of the State Courts Administrator  
Department of Corrections  
Department of Revenue



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Acting Director  
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